

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	*	
	*	Criminal Action No. 16-30044-MGM
v.	*	
	*	
DIOLFI ANTONIO MARTE VAZQUEZ,	*	
	*	
Defendant.	*	

MEMORANDUM AND ORDER RE: REPORT AND
RECOMMENDATION ON COMPETENCY TO STAND TRIAL
(Dkt. Nos. 833 and 1733)

February 7, 2024

MASTROIANNI, U.S.D.J.

In a Report and Recommendation issued November 17, 2023 (Dkt. No. 23), Magistrate Judge Katherine A. Robertson recommended that the court find that Defendant is presently suffering from a mental defect rendering him unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense under 18 U.S.C. § 4241(d). Judge Robertson held a hearing on November 6, 2023, and thoroughly considered three forensic evaluations of Defendant. The Report and Recommendation notified the parties that they had fourteen days to file an objection. No objections have been filed.¹

Based upon the comprehensive and persuasive analysis presented in the Report and Recommendation, and noting there are no objections, the court, upon *de novo* review, hereby ADOPTS the Report and Recommendation. (Dkt. No. 1733). Accordingly, the court finds by a preponderance of the evidence that Defendant is presently suffering from a mental defect rendering

¹ As Judge Robertson explained, neither party disputed that Defendant is not competent to stand trial at this time.

him unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense. *See* 18 U.S.C. § 4241(d).

The court ORDERS that Defendant shall self-report or surrender to the Marshals' office, once a specific placement has been designated and is available for him. This report or surrender will be in furtherance of and commence his commitment to the custody of the Attorney General for placement in a suitable facility for a reasonable period of time, not to exceed four months, for the purpose of determining whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward, pursuant to 18 U.C.S. § 4241(d)(1). The self-surrender to a facility or to the Marshals shall be addressed by the parties no later than 14 days before the specifically assigned designated report date. **Defendant shall remain under the programming and direction of the Probation Department while he awaits a designated placement in a facility for competency restoration.** In addition, the court ORDERS that the facility to which Defendant is ultimately committed shall submit a report, no later than two weeks after the expiration of the four-month period specified in 18 U.S.C. § 4241(d)(1), addressing the probability that Defendant can be restored to mental competency in the foreseeable future. Upon designation and placement in a suitable facility, the government shall provide a copy of this Order, along with a copy of Judge Robertson's Report and Recommendation and copies of the three forensic evaluations (Dkt. No. 1500-1 and Dkt. No. 1723), all of which remain under seal, to the Bureau of Prisons. The court will hold a remote status conference on April 3, 2024, at 2:00 p.m. to address the progress of Defendant's designation to a suitable facility and other logistical issues.

It is So Ordered.

/s/ Mark G. Mastroianni
 MARK G. MASTROIANNI
 United States District Judge